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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,119	02/04/2004	John McKenzie	29295.00	4290

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KNOXVILLE, TN 37950-1295

EXAMINER

SOTELO, JESUS D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,119

Applicant(s)

MCKENZIE, JOHN

Examiner

Jesús D. Sotelo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/04/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-20 are in the application.

Claim Objections

2. Claims 1-20 are objected to because of the following informalities: Regarding the reference to the “pivot point” between the rails and the support members, the term is a misnomer for the rails are connected to the support members by a pivot axle and not a pivot point. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Riviere. Riviere discloses an apparatus for lifting and carrying a watercraft out of the water including means 18 for holding the watercraft; means 14 for securing the means for holding; means 50 for pulling the watercraft; and means 42 for moving the holding means from a loading position into a stowed position. Means 48 is provided for accessing the watercraft.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 11, 15, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riviere in view of Bucher.

Riviere discloses the apparatus of claim 10, except that a pulley is not provided in fixed relation to the first end of the rail member. Bucher discloses a similar arrangement including a pivoting framework including rails and a fixed framework for supporting the pivoting framework. Bucher teaches providing the pivoting platform with a pulley 33 and a winch 25. In view of these disclosures, it would have been obvious to one skilled in the art to provide the pivoting platform of Riviere with a fixed pulley generally as taught by Bucher. It would have been desirable to provide a pulley to maintain control of the puling rope generally as taught by Bucher.

To shape the rails to accommodate the shape of the watercraft would have been an obvious matter of engineering design to one skilled in the art.

7. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riviere in view of Bucher as applied to claim 10 above, and further in view of Wilkins.

Wilkins discloses an apparatus similar to that of Riviere and teaches providing the rails with at least one friction strip. In view of these disclosures, it would have been obvious to one skilled in the art to provide the rails of the apparatus of Riviere with friction strips generally as taught by Wilkins.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riviere in view of Bucher as applied to claim 10 above, and further in view of Egan et al.

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Allowable Subject Matter

9. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claim 1-7 are allowed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 703-308-2563. The examiner can normally be reached on Mon. - Fri. 6:00 AM -2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jesús D. Sotelo
Jesús D. Sotelo 9/21/04

Primary Examiner

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CPK 5-6D16 ☺

sotelo;jds
September 21, 2004